

CHAPTER 16

OFFENSES--MISCELLANEOUS

SECTION 16-1. OBSTRUCTING JUSTICE.

- (a) If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, witness or any law enforcement officer in the performance of his duties as such or fails or refuses without just cause to cease such obstruction when requested to do so by such person, he shall be guilty of a Class 4 misdemeanor.
- (b) If any person, by threats or force, knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, witness or an officer of a court, or any law-enforcement officer, in the discharge of his duty, or to obstruct or impede the administration of justice in any court he shall be deemed guilty of a Class 1 misdemeanor. (Code 1959, §16-21)(Ord. No. 045-95, 9-12-95)

State Law Reference--Similar provisions, Code of Virginia, §18.2-460.

SECTION 16-2. AUTOMATIC TELEPHONE CALLS OR ALARMS TO FIRE OR POLICE DEPARTMENT OR EMERGENCY SERVICE COMMUNICATIONS CENTER.

- (a) It shall be unlawful for any person to install or operate any device which will automatically, by electrical, chemical, mechanical or other means, cause an automatic telephone call to be placed and programmed to dial or otherwise automatically send an alarm message by voice telephone circuits or other means to the police or fire department, or to the emergency service communications center located in the public safety building in the City.
- (b) Any person who violates the provisions of this section shall be guilty of a Class 3 misdemeanor.
- (c) Nothing in this section shall be construed to prohibit automatic alarms operating over special signal circuits terminating in the public safety building and connected thereto in compliance with the rules and regulations promulgated by the chief of police. (Ord. of 6-14-78)

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SECTION 16-3. CALLING OR SUMMONING AMBULANCE OR FIRE-FIGHTING APPARATUS WITHOUT JUST CAUSE; MALICIOUSLY ACTIVATING FIRE ALARMS IN PUBLIC BUILDINGS.

Any person who without just cause therefor calls or summons, by telephone or otherwise, any ambulance or fire-fighting apparatus, or any person who maliciously activates a manual or automatic fire alarm in any building used for public assembly or for other public use, including, but not limited to, schools, theaters, stores, office buildings, shopping centers and malls, coliseums and arenas, regardless of whether fire apparatus responds or not, shall be deemed guilty of a Class 1 misdemeanor. (Code 1959, §16-5)

State Law References--Similar provisions, Code of Virginia, §18.2-212; Crimes and offenses generally, Code of Virginia, Title 18.2.

SECTION 16-4. FRAUDULENT USE OF PAY PHONES, PARKING METERS AND OTHER COIN-OPERATED MACHINES.

- (a) No person shall operate, cause to be operated or attempt to operate or cause to be operated any coin-box telephone, parking meter, vending machine or other machine that operates on the coin-in-the-slot principle, whether of like kind or not, designed only to receive lawful coin of the United States of America, in connection with the use or enjoyment of telephone or telegraph service, parking privileges or any other service, or the sale of merchandise or other property, by means of a slug or any false, counterfeit, mutilated, sweated or foreign coin, or by any means, methods, trick or device whatsoever, not authorized by the owner, lessee or licensee of such coin-box telephone, parking meter, vending machine or other machine.
- (b) No person shall obtain or receive telephone or telegraph service, parking privileges, merchandise or any other service or property from any such coin-box telephone, parking meter, vending machine or other machine, designed only to receive lawful coin of the United States of America, without depositing in or surrendering to such coin-box telephone, parking meter, vending machine or other machine, lawful coin of the United States of America to the amount required therefor by the owner, lessee or licensee of such coin-box telephone, parking meter, vending machine or other machine.

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- (c) Any person violating this section shall be deemed guilty of a Class 3 misdemeanor. (Code 1959, §15-124)

Cross reference--Parking meters, §14-63, *et seq.*

State Law References--Similar provisions, Code of Virginia, §18.2-170; manufacture of slugs for unlawful use, §18.2-180.

SECTION 16-5. CURFEW FOR MINORS.

Purpose: The goal of this section is to inhibit juvenile crime, to prevent the victimization of children, to promote the health and safety of children, and to increase parental responsibility for their children.

- (a) It shall be unlawful for any minor under the age of fifteen (15) years to be in or upon any street, park or other public place in the city, on Sunday through Thursday between the hours of 11:00 P.M. and 5:00 A.M. of the following day, or Friday or Saturday from the hours of 12:00 P.M. and 5:00 A.M. of the following day unless, in either case, one of the following exceptions apply:
1. the minor is accompanied by his parent, guardian or other adult person having the legal care, custody, or control of such minor,
 2. the minor is engaged in, traveling in direct route to, or returning home from legal employment,
 3. the minor is attending, traveling in direct route to, or returning directly home from a school, religious or adult supervised activity sponsored by the City or a school, religious or civic group that takes responsibility for the minor,
 4. the minor is involved in an emergency,
 5. the minor is in a motor vehicle engaged in interstate travel, or
 6. the minor is or has been married or the minor has been lawfully emancipated.
- (b) It shall be unlawful for the proprietor, manager or other person having charge or control of any public place to permit or encourage any minor under the age of fifteen (15) to violate this section.

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- (c) It shall be unlawful for a parent, guardian, or other adult person having the care, custody or control of a minor under the age of fifteen (15) years to permit or encourage such to violate this section.
- (d) A first violation of any provision of this section shall constitute a Class 4 misdemeanor. A second violation of any provision of this section within 90 days of a first violation by any person shall constitute a Class 2 misdemeanor.
(Code 1959, §16.7)(Ord. No. 045-95, 9-12-95; Ord. No. 007-96, 04-09-96)

State Law References - Authority of city to enact a curfew ordinance, Code of Virginia §15.1-33.4; to regulate presence of minors in places of amusement, §18.2-432

SECTION 16-6. OBSTRUCTING FREE PASSAGE OF OTHERS.

Any person or persons who, in any public place or on any private property open to the public, unreasonably or unnecessarily obstructs the free passage of other persons to and from or within such public place or private property and who shall fail or refuse to cease such obstruction or move on when requested to do so by the owner or lessee, or agent or employee of such owner or lessee, or by a duly authorized law-enforcement officer shall be guilty of a Class 1 misdemeanor. Nothing in this section shall be construed to prohibit lawful picketing. (Code 1959, §16-15; Ord. of 7-13-71)

State Law Reference--Similar provisions, Code of Virginia, §18.2-404.

SECTION 16-6.1. DISORDERLY CONDUCT IN PUBLIC PLACES.

A person is guilty of disorderly conduct and a misdemeanor if, with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:

1. In any street, highway, public building, or while in or on a public conveyance or public place engages in conduct having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed; provided, however, such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this chapter; or
2. Willfully, or being intoxicated, whether willfully or not, disrupts any meeting of the city council or a division or agency thereof, or of any school, literary society or at any place of religious worship, if such disruption prevents or interferes with the orderly conduct of such meeting or has a direct tendency to cause acts of violence by the person or persons at whom, individually, such disruption is directed; provided, however, such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this chapter.

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The person in charge of any such building, place, conveyance or meeting may eject therefrom any person who violates any provision of this section, with the aid, if necessary, of any persons who may be called upon for such purpose. A person violating any provision of this section shall be guilty of a Class 1 misdemeanor. (Code 1959, §§16-8, 16-9, 16-22)(Ord. No. 045-95, 9-12-95)

State Law Reference--Similar provisions and authority to adopt above section, Code of Virginia, §18.2-415.

SECTION 16-7. DISCHARGE OF FIREARMS.

It shall be unlawful and a Class 1 misdemeanor for any person to fire or discharge any gun, pistol or other firearm within the limits of the City. This section shall not apply to any law-enforcement officer in the discharge of his official duties nor to any other person whose discharge of a firearm is justifiable or excusable at law in the protection of his life or property or is otherwise specifically authorized by law. (Code 1959, §16-11)

Cross reference--Shooting birds, §5-8.

State Law References--Authority of city to regulate or prohibit discharge of firearms, Code of Virginia, §15.1-865; discharging firearms in streets or public places, Code of Virginia, §§18.2-280, 18.2-286.

SECTION 16-8. DISCHARGE OF AIR GUN, GRAVEL SHOOTER OR SIMILAR INSTRUMENT.

It shall be unlawful and a Class 3 misdemeanor for any person anywhere within the City to discharge any shot, bullet, gravel or any similar thing from an air gun, gravel shooter or other similar instrument. (Code 1959, §16-4)

SECTION 16-9. USE OF BOW AND ARROW RESTRICTED; PERMIT REQUIRED FOR ARCHERY RANGE; URBAN ARCHERY HUNTING

- (a) The use of bow and arrows and establishment of an Archery Range within the City limits shall be subject to the following restrictions:
 - 1. No person shall shoot or discharge an arrow from a bow within the City, except upon an archery range which has been approved as to safety of location and construction by the chief of police.

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2. No minor shall shoot or discharge an arrow from a bow within the City, except upon an archery range approved as to safety of location and construction by the chief of police and then only when under the immediate supervision of an adult.
3. Nothing in this section shall apply to the discharge of an arrow, equipped with a blunt rubber tip or rubber suction cup from a bow with a "pull" or "draw weight" of less than ten (10) pounds.
4. No person shall set up or operate an archery range in the City without first obtaining a permit from the chief of police. The chief of police shall issue a permit for the construction and operation of an archery range only after the location and construction of the same have been proven to his satisfaction to be consistent with the public safety.

(b) **URBAN ARCHERY HUNTING.** Section 16-9(a) shall not apply when discharging an arrow from a bow for the purposes of deer hunting within the City of Winchester limits during the Urban Archery Season, the Early Archery Season, the General Firearms Deer season, as designated in regulations set forth by the Virginia Department of Game and Inland Fisheries, under the following conditions:

1. On land that is five (5) acres or more of continuous area, approved by the City Manager and the Chief of Police;
2. The landowner or landowners have applied for an annual permit from the City Manager to use their property for the purpose of discharging archery equipment and have identified their properties as such by signage approved by the Chief of Police;
3. Any person discharging a bow shall, at all times, while engaged in such activity, have in his possession written permission from the landowner(s) to discharge such a weapon on his premises;
4. Agreement shall be made between the participant and landowner(s) in reference to field dress;
5. All participants must abide by all applicable sections of the Virginia State Code and Virginia Hunting Regulations. Further, the following restrictions apply:
 - a. Discharge of a bow must be done from an elevated stand with a minimum height of ten (10) feet.
 - b. No person shall discharge a bow within one hundred (100) yards of any dwelling, building, street, sidewalk, alley, roadway, public land or public place within City limits. Further, all hunting shall be done internally to the property approved for hunting.

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- c. A person shall neither discharge a bow from, over or across any street, sidewalk, alley, roadway, or public land or public place within City limits or toward any building or dwelling in such a manner that an arrow may strike it nor shall a person discharge a bow over or across the private property of another without permission.
 - d. No person shall hunt deer within the City limits by use of dog or dogs.
 - e. Urban Archery Season is restricted to hunting antlerless deer only.
 - f. Any person engaging in deer hunting must dispose of deer carcasses appropriately.
- (c) Any person violating any provision of this section shall be guilty of a Class 3 misdemeanor. (Code 1959, §16-5.1) (Ord. No. 006-2005, 3-8-05)

SECTION 16-10. PUBLIC PROFANITY AND DRUNKENNESS.

- (a) If any person profanely curses or swears or is drunk in public he shall be deemed guilty of a Class 4 misdemeanor.
- (b) If any person shall be convicted for being drunk in public three (3) times within one year in this City, upon the third or any subsequent conviction for such offense within the period of one year, such person shall be guilty of a Class 3 misdemeanor. (Code 1959, 16-18)

State Law References--Similar provisions, Code of Virginia, §18.2-388; authority of city to adopt above section, §18.2-389.

SECTION 16-11. DAMAGING PROPERTY.

- (a) *In general.* It shall be unlawful for any person to destroy, deface, damage, remove or injure any property, real or personal, private or public, not his own.
- (b) *Municipal property.* No person, within the City, unless authorized by city officials, shall remove, interfere with, injure, deface, damage or destroy any city property. The acts hereby prohibited include, but are not limited to, the application by any method of any type of paint to any street or sidewalk surface, or to any street or traffic sign. (Code 1959, §16-13; (Ord. No. 010-79, 4-11-79)

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- (c) Violation of any provision under this section shall constitute a Class 1 misdemeanor. (Ord. No. 045-95, 9-12-95)

Cross references--Damaging library property, §12-1; damaging parking meters, §14-73; damaging waterworks property, §29-23.

State Law References--Damaging property, Code of Virginia, §18.2-137, *et seq.*

SECTION 16-11.1. INJURING, TAMPERING WITH, ETC., VEHICLES, AIRCRAFT, ETC.

- (a) Any person who shall, individually or in association with one or more others, willfully break, injure, tamper with, or remove any part or parts of, any vehicle, aircraft, boat or vessel, for the purpose of injuring, defacing or destroying such vehicle, aircraft, boat or vessel, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner of such vehicle, aircraft, boat or vessel, or who shall in any other manner willfully or maliciously interfere with or prevent the running or operation of such vehicle, aircraft, boat or vessel, shall be guilty of a Class 1 misdemeanor.
- (b) Any person who shall, without the consent of the owner or person in charge of a vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad, climb into or upon such vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad with intent to commit any crime, malicious mischief or injury thereto, or who, while a vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad is at rest and unattended, shall attempt to manipulate any of the levers and starting crank or other device, brakes or mechanism thereof or to set such vehicle, aircraft, boat, vessel, locomotive or other rolling stock of a railroad in motion, with the intent to commit any crime, malicious mischief or injury thereto, shall be guilty of a Class 2 misdemeanor. This subsection shall not apply when any such act is done in an emergency or in furtherance of public safety or by or under the direction of an officer in the regulation of traffic or performance of any other official duty.
- (c) The provisions of this section shall not apply to a bona fide repossession of a vehicle, aircraft, boat or vessel by the holder of a lien thereon or by the agents or employees of such lien holder.(Ord. No. 045-95, 9-12-95)

State Law References--Similar provisions, Code of Virginia, §§18.2-146-18.2-148.

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SECTION 16-12. ENTERING OR REMAINING ON PROPERTY OF ANOTHER AFTER HAVING BEEN FORBIDDEN TO DO SO.

If any person shall, without authority of law, go upon or remain upon the lands, buildings or premises of another, or any part, portion or area thereof, after having been forbidden to do so, either orally or in writing, by the owner, lessee, custodian or other person lawfully in charge thereof, or after having been forbidden to do so by a sign or signs posted on such lands, buildings, premises or part, portion or area thereof at a place where it may be reasonably seen, he shall be deemed guilty of a misdemeanor. (Ord. No. 045-95, 9-12-95)

State Law Reference--Similar provisions, Code of Virginia, §18.2-119.

SECTION 16-13. INSTIGATING, ETC., TRESPASS BY OTHERS; PREVENTING SERVICE TO PERSONS NOT FORBIDDEN ON PREMISES.

If any person shall solicit, urge, encourage, exhort, instigate or procure another or others to go upon or remain upon the lands, buildings or premises of another, or any part, portion or area thereof, knowing such other person or persons to have been forbidden, either orally or in writing, to do so by the owner, lessee, custodian or other person lawfully in charge thereof, or knowing such other person or persons to have been forbidden to do so by a sign posted on such lands, buildings, premises or part, portion or area thereof at a place where it may reasonably be seen; or if any person shall, on such lands, buildings, premises or part, portion or area thereof, prevent or seek to prevent the owner, lessee, custodian, person in charge or any of his employees from rendering service to any person not forbidden, he shall be deemed guilty of a Class 2 misdemeanor. (Ord. No. 045-95, 9-12-95)

State Law Reference--Similar provisions, Code of Virginia, §18.2-120.

SECTION 16-14. PEEPING TOMS.

If any person shall enter upon the property of another, in the nighttime, and secretly or furtively peep through or attempt to so peep, into, through, or spy through, a window, door or other aperture of any building, structure, or other enclosure of any nature occupied or intended for occupancy as a dwelling, whether or not such building, structure or enclosure be permanently situated or transportable and whether or not such occupancy be permanent or temporary, such person shall be guilty of a Class 1 misdemeanor. (Code 1959, §16-17)(Ord. No. 045-95, 9-12-95)

State Law Reference--Similar provisions, Code of Virginia, §18.2-130.

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SECTION 16-15. POSTING ADVERTISING MATTER ON STRUCTURES OR VEHICLES OF ANOTHER WITHOUT CONSENT.

It shall be unlawful and a Class 3 misdemeanor for any person to place or attach or to have placed or attached any bill, poster, circular, notice, advertisement or plaque upon any building, post, wall, fence or other structure or vehicle in the City, on or adjacent to and within four (4) feet of any street, sidewalk or publicly owned property, without first obtaining the consent of the owner of such property. (Code 1959, §16-1)

SECTION 16-16. DEFACING UTILITY POLES WITH SIGNS, NAILS, WIRE, ETC.

It shall be unlawful and a Class 3 misdemeanor for any person to deface any telegraph, telephone or electric light pole by posting bills thereon, putting up signs thereon, driving nails therein or by wrapping around it wire or other material. (Code 1959, §16-2)

SECTIONS 16-17. - 16.17.11. REPEALED AND REENACTED. (Ord. No. 045-95, 9-12-95)

SECTION 16-18. SUNDAY CLOSING LAW NOT APPLICABLE IN CITY.

- (a) In accordance with Section 15.1-29.5 of the Code of Virginia, the qualified voters of the City held a referendum on Tuesday, November 2, 1976 on the question: "Shall the various work, sales, and business activities presently prohibited on Sunday by Section 18.2-341 of the Code of Virginia (commonly known as the Sunday closing law) be allowed in the City of Winchester, Virginia?". The results of this referendum, as certified by the electoral board of the City, indicate that such a law is not necessary in the City.
- (b) As a result of the duly held referendum on the subject of the Sunday closing law, the city council deems that the provisions of Section 18.2-341, Code of Virginia, shall have no force or effect within the City. (Ord. of 11-9-76, §§1,2)

State Law Reference--Code of Virginia, §18.2-342.

SECTION 16-19. NUISANCES GENERALLY - DEFINITION.

Any condition existing or maintained anywhere in the City and any act of a person which creates or is likely to create an offensive odor or any unhealthy or unsanitary condition dangerous, inconvenient or damaging to the inhabitants of the City shall be termed a nuisance. (Code 1959, §11-8)(Ord. No. 045-95, 9-12-95)

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SECTION 16-20. SAME - INSPECTION; NOTICE TO ABATE.

Whenever it shall come to the attention of the city engineer or upon complaint of any person to the city engineer that a nuisance is being created or maintained, the city engineer or his designee shall cause an inspection to be made of the premises and, if a nuisance exists as provided in Section 16-18, he shall cause to be served upon the occupant of the premises and, if the premises are not occupied, upon the owner, a notice to correct the unsanitary, unsafe, or unhealthy condition or to appear before the general district court and show cause why such notice should not be complied with.

In case of a known non-resident owner having no agent in the City, such notice shall be mailed to the last known address of the owner and fifteen (15) days allowed for a reply. If the owner of the premises or his agent is not known, then such notice shall be given by publication at least once a week for four (4) successive weeks in a newspaper having general circulation in the City. (Code 1959, §11-9, Ord. No. 049-88, 11-15-88)

State Law References--Power of city to cause abatement of nuisances, Code of Virginia, §§15.1-14, 15.1-867.

SECTION 16-21. SAME - FAILURE TO COMPLY WITH NOTICE TO ABATE.

- (a) If any person, after having been given notice as provided in Section 16-19, fails or refuses to comply with such notice or fails or refuses to show cause before the general district court why such compliance should not be made, such person shall be deemed guilty of a misdemeanor. The judge of the general district court shall then order that the nuisance be abated, or the unsanitary, unsafe, unsightly or offensive condition be corrected; provided, however, that the judge may, in his discretion, grant a reasonable and specified time to the defendant in which to have the nuisance abated or the condition corrected.
- (b) Any costs incurred by the City in the abatement of a nuisance or the correction of an unsanitary, unsafe, unsightly or offensive condition shall be assessed against the person responsible and collected in the manner in which other assessments are collected by the City. (Code 1959, §11-10)

SECTION 16-22. SAME - ABATEMENT BY CITY WITHOUT NOTICE.

The provisions concerning notice as provided in Section 16-19 shall not apply if the nuisance or condition complained of is such that immediate action is necessary for the protection of public health. The City shall cause the same to be abated at once, without notice, and all costs incident thereto shall be assessed against the owner of the premises and collected in the manner in which other assessments are collected by the City. (Code 1959, §11-11)

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SECTION 16-23. CONDITIONS CONDUCTIVE TO BREEDING OF MOSQUITOES.

It shall be unlawful for the owner or occupant of any property located within the City to allow or maintain a condition which promotes or encourages the breeding of mosquitoes. All premises shall be graded and maintained so as to prevent the accumulation of stagnant water thereon, or within any building or structure located thereon, which might endanger the health of the residents of the City. If the city engineer or his designee determines that a violation of this section exists, the owner or occupant shall be so-notified to abate same, as provided in Section 16-20 of this Code. (Code 1959, §§11-5, 11-7; Ord. of 1-11-78; Ord. of 7-11-78; Ord. No. 049-88, 11-15-88)

SECTION 16-24. PRIVIES, SINKS OR CESSPOOLS; UNLAWFUL DISPOSAL OF LIQUID WASTE OR HUMAN EXCRETA.

- (a) It shall be unlawful for any person to construct or maintain a privy vault, sink or cesspool.
- (b) No liquid waste from any premises or the discharge from any kitchen sink, water closet, bathtub or other like receptacle shall be permitted by the owner or any occupant of the premises to flow upon the premises of any adjacent lot owner.
- (c) It shall be unlawful for any person to deposit any human excreta upon the ground or in any place accessible to animals or flies, or where it may be washed into any stream, spring or well used for drinking purposes. (Code 1959, §§11-2 - 11-4; Ord No. 023-88, 5-10-88)

Cross reference--Sewer connection or septic tank required, §29-59.

SECTION 16-25. OPEN STORAGE OF INOPERATIVE VEHICLES IN CERTAIN ZONING DISTRICTS.

- (a) **DEFINITIONS.** For the purpose of this section, the following terms shall have the meanings set forth below:

Inoperable motor vehicle means any motor vehicle, trailer, or semi-trailer as defined in §46.2-100 of the Code of Virginia which meets any of the following criteria:

- 1. is not in operating condition;
- 2. does not have displayed on the vehicle a valid license plate and does not have displayed on the vehicle a valid inspection decal if one is required by State law; or

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3. for a period of sixty (60) days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or essential parts required for operation of the vehicle.

Shielded or screened from view means that the motor vehicle, trailer, or semi-trailer, whether covered or uncovered, is not visible by someone standing at ground level from outside of the property on which the subject motor vehicle, trailer, or semi-trailer is located.

- (b) **OPEN STORAGE OF INOPERABLE MOTOR VEHICLES.** It shall be unlawful for any person to keep, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any property zoned for residential or commercial purposes, any motor vehicle, trailer, or semi-trailer, as defined in §46.2-100 of the Code of Virginia, which is inoperative. Covering an inoperable motor vehicle, trailer, or semi-trailer with a tarpaulin or other similar vehicle cover shall not be considered as being screened from view.

However, the provisions of this section shall not apply to a licensed business which on November 10, 1970 was regularly engaged in business as an automobile dealer, salvage dealer, or a scrap processor. The exception for such licensed business shall apply only to such property on which the said business was operated on November 10, 1970, and on which said business has continued to operate without interruption.

- (c) **REMOVAL OF INOPERABLE MOTOR VEHICLES; NOTICE.** The owners of property zoned for residential or commercial purposes not otherwise exempt in subsection (b) shall remove therefrom any such inoperative motor vehicles, trailers, or semi-trailers that are not kept within a fully enclosed building or structure within fifteen (15) days of notice of violation. Notice given pursuant to this section shall be sent by the building official, or his or her designee, using registered or certified mail, return receipt requested, to the owner of the premises on which such inoperable motor vehicle, trailer, or semi-trailer is located. The notice shall explain the violation, state the year, make and model of the inoperable motor vehicle, trailer, or semi-trailer, and shall set forth the consequences of failing to comply.
- (d) **REMOVAL AND DISPOSAL OF INOPERABLE MOTOR VEHICLE BY CITY; NOTICE.** The city council, through its employees, may remove any such inoperative motor vehicle, trailer, or semi-trailer whenever the owner of the premises, after having been given notice pursuant to this section, has failed to do so.

In the event the City so removes any such inoperable motor vehicle after having given notice, the City may dispose of such vehicle after giving thirty (30) days additional notice to the owner of the vehicle. The cost of such removal and

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disposal shall be chargeable to the owner of the vehicle or premises, and may be collected by the City as taxes and levies are collected.

- (e) **COSTS.** Every cost authorized by this section with which the owner of the premises shall have been assessed shall constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of such costs shall have been made to the City. Notwithstanding the other provisions of this section, if the owner of such vehicle can demonstrate that he is actively restoring or repairing the vehicle, and if it is shielded or screened from view, the vehicle and one additional inoperative motor vehicle that is shielded or screened from view and being used for the restoration or repair may remain on the property.
- (f) **PENALTIES.** Violations of this section shall be subject to a civil penalty, not to exceed One Hundred Dollars (\$100.00) for the first violation or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within twelve (12) months of the first violation shall not exceed Two Hundred Fifty Dollars (\$250.00). Each day during which the same violation is found to have existed shall constitute a separate offense. However, violations arising from the same set of operative facts shall not be charged more frequently than once in any ten (10) day period and a series of specified violations arising from the same set of operative facts shall not result in civil penalties that exceed a total of Five Thousand Dollars (\$5,000.00) in a twelve (12) month period.

If three (3) civil penalties are imposed within a twenty-four (24) month period on the same person for the same or similar violation of this section, not arising out of the same set of operative facts, such person shall be guilty of a Class 3 Misdemeanor for each subsequent violation.
(Ordinance of 11-10-70, amended; Ord No. 023-88, 5-10-88; Ord. No. 020-97, 8-12-97; Ord. No. 12-2006, 4-11-06)

State Law Reference--Authority for above section, Code of Virginia, §15.2-904.

SECTION 16-26. PARKING OF HOUSE TRAILERS AND MOBILE HOMES.

It shall be unlawful for any person to park any house trailer or mobile home on a public street or on any property not zoned for such purposes, except for limited parking of a trailer or mobile home upon permission granted by the police department.
(Code 1959, §16-25; Ord. of 6-14-78)

Cross reference--General parking regulations, §14-45, *et seq.*

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SECTION 16-27. PAWNBROKERS' DAILY REPORTS TO POLICE.

This section may be cited as the "Pawnbroker and Secondhand Dealer Regulatory Ordinance of the City of Winchester". (Ord. 025-94, 09-13-94)

SECTION 16-27.1. DEFINITION OF SECONDHAND DEALER AND PAWNBROKER.

- A) 1) For purposes of this section a secondhand dealer is defined as any person, partnership, corporation, or other entity who sells any one of the following: used electronic items less than fifty (50) years old, or used hand or power tools less than fifty (50) years old. Electronic items include the following, whether designed for home, personal, or vehicular use, but are not limited to televisions, stereos, stereo components, radios, telephones, compact disc players, digital audio tape (DAT) players, audio speakers, video cassette recorders (VCR's), microwave ovens, cameras, video cameras, computers and computer equipment.
- 2) Exceptions - The definition of secondhand dealer shall not include those persons, partnerships, corporations, or other entities selling property that was bought new from a licensed manufacturer, wholesaler, or retailer by such person, partnership corporation, or other entity. The term secondhand dealer also shall not include charitable organizations.
- B) For purposes of this section pawnbroker means any person, partnership, corporation, or other entity who lends or advances money or other things for profit on the pledge and possession of personal property, or other valuable things, other than securities or written or printed evidences of indebtedness, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price.
- C) For the purposes of this section "used" shall mean items purchased from anyone other than a licensed manufacturer or licensed wholesaler. (Ord. 025-94, 09-13-94).

State Law References--Code of Virginia, §15.1-866 and §54.1-400.

SECTION 16-27.2 RECORDKEEPING REQUIREMENTS SECONDHAND DEALERS AND PAWNBROKERS.

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- A) Every secondhand dealer and pawnbroker, as defined in Section 16-27.1, shall keep at his place of business a legible record of each purchase, loan, or transaction made by him or any of his employees or agents in the course of business.

Each record shall include:

- 1) a description, serial number, and a statement of ownership by the person selling, pawning, pledging, or consigning the goods received by the secondhand dealer or pawnbroker;
 - 2) the time, date, and place of the transaction;
 - 3) the price paid or the item exchanged for the property, or the amount loaned to the person pledging the goods and the rate of interest on such loan;
 - 4) the full name, social security number, home and work addresses and telephone numbers of the person selling, pawning, pledging, or consigning the goods, together with a description of such person including height, weight, date of birth, race, gender, hair and eye color, and any identifying marks;
 - 5) verification of the identification by the exhibition of a government issued photo-identification card. The record shall indicate the type of identification, the issuing agency, and the identification number thereon. If the seller, pawnor, pledgor, or consignor does not have a government issued photo identification card, the record shall contain verification of two other forms of identification including type and issuer; and
 - 6) all other facts and circumstances involved in the transaction.
- B) Every secondhand dealer and pawnbroker shall admit to his premises, during business hours, the chief of police for the City of Winchester or his sworn designee to examine the transaction record of the dealer and search for any article listed in the transaction record that the chief of police or his sworn designee knows or believes to be stolen, without the formality of a warrant. (Ord. 025-94, 09-13-94)

State Law References--Code of Virginia, §15.1-866, §54.1-4009, and §54.1-4011.

SECTION 16-27.3. REPORTING REQUIREMENT.

- A) Every secondhand dealer and pawnbroker, as defined in Section 16-27.1, shall prepare a written report at the end of each day of all personal property purchased or received as collateral from individuals and file such report with the chief of

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police not later than noon the next day. Such report shall contain all of the information required in Section 16-27.2(A) (1-6). and shall be in clear legible writing.

- B) Every secondhand dealer and pawnbroker, as defined in Section 16-27.1, shall file a report with the chief of police for the City of Winchester listing the full name, date of birth, social security number, sex, home address, and home telephone number of each person employed by the secondhand dealer or pawnbroker. Such report shall also include a photograph of each employee. Such report shall be filed within thirty (30) days from the date this ordinance takes effect, after which an addendum to such report shall be filed by the pawnbroker or secondhand dealer with the chief of police within five (5) days after hiring a new employee. Such addendum shall include the same information and photograph required in the original report. (Ord. 025-94, 09-13-94).

State Law References--Code of Virginia, §15.1-866 and §54.1-4010.

SECTION 16-27.4. LIMITATIONS ON THE NUMBER OF PAWNBROKERS.

Not more than three (3) places within the City of Winchester shall be licensed where the business of a pawnbroker, including a pawnbroker's sales, may be conducted. Licenses shall not be transferable. (Ord. 025-94, 09-13-94).

State Law References--Code of Virginia, §15.1-866 and §54.1-4002.

SECTION 16-27.5. LICENSING PROCEDURE.

- A) Upon authorization of the chief of police, the Police Department of the City of Winchester shall issue a secondhand dealer license upon payment of a fifty dollar (\$50.00) licensing fee, payment of a fee to cover the expense of a background check, such fee to be determined by the chief of police for the City of Winchester, and satisfaction of the requirements herein. The applicant shall be given a license if he has satisfied the chief of police of his good character and he has not been convicted within the last seven (7) years of a felony or a crime of moral turpitude, including, but not limited to, larceny, receiving stolen property, and fraud. Information required on the application shall include the applicant's full name, aliases, or trading names, address, age, social security number, sex, fingerprints, and photograph. The application shall also include the name, address and telephone number of all of the applicant's employers within the previous seven (7) years, if any, and the location of the site at which the application wishes to operate as a secondhand dealer. Licenses shall be valid for one (1) year from the date of issuance and may be renewed in the same manner as the initial license was obtained. The fee set out in this section shall be required for an initial license

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only. Within the City of Winchester, a secondhand dealer may only sell personal property obtained in the operation of his business from the location specified in his application. The license shall not be transferable.

- B) Upon authorization of the Circuit Court, the Police Department of the City of Winchester shall issue a pawnbroker license upon payment of a one hundred dollar (\$100.00) licensing fee, payment of a fee to cover the expense of a background check, such fee to be determined by the chief of police for the City of Winchester, and satisfaction of the requirements herein. The applicant shall be given a license if he has satisfied the chief of police of his good character and he has not been convicted within the last seven (7) years of a felony or a crime of moral turpitude, including, but not limited to, larceny, receiving stolen property, and fraud. Information required on the application shall include the applicant's full name, aliases, or trading names, address, age, social security number, sex, fingerprints, and photograph. The application shall also include the name, address and telephone number of all of the applicant's employers within the previous seven (7) years, if any, and the location of the site at which the application wishes to operate as a secondhand dealer. Licenses shall be valid for one (1) year from the date of issuance and may be renewed in the same manner as the initial license was obtained. The fee set out in this section shall be required for an initial license only. Within the City of Winchester, a pawnbroker may only operate his business from the location specified in his application. The license shall not be transferable. (Ord. 025-94, 09-13-94)

State Law References--Code of Virginia, §15.1-866 and §54.1-4001.

SECTION 16-27.6. PENALTY FOR VIOLATION OF ORDINANCE.

Any person who violates any provision of this section shall be guilty of a Class 4 misdemeanor. Each days violation shall constitute a separate violation. If the holder of a secondhand dealer license is found guilty of three (3) violations of this section within any one year period, the chief of police may revoke or suspend the violator's license to operate as a secondhand dealer. (Ord. 025-94, 09-13-94)

State Law Reference--Code of Virginia, §15.1-866.

SECTION 16-28. PROTECTION OF FOOD DURING TRANSPORTATION.

All meat, dressed poultry, fish, bread, pastry, confectionery or other provisions which may be used as human food while being transported through the streets of the City shall be so covered or screened as to be protected from dirt and flies. (Code 1959, §11-6).

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SECTION 16-29. REPEALED.

(Ord. No. 018-84, 10-09-84)

SECTION 16-30. LOITERING PROHIBITED; PENALTY FOR VIOLATION.

It shall be unlawful for any person or persons to loiter in or around any public transportation depot, station or grounds, public place, building, financial institution, office, motel, hotel, store, shop, public way, public toilets, dwelling or other public place without lawful authority for being there.

1. Definition. As used in this section, "loiter" or "loitering" shall mean remaining idle in essentially one location and shall include, but not be limited to, the concepts of spending time idly, loafing, or walking about aimlessly, and shall also include conduct embraced in the colloquial expression "hanging around".
2. The following acts and conduct by any person or persons shall be included in the term "loiter" or loitering", and are hereby prohibited:
 - a. Creating or causing to be created any disturbance or annoyance to the comfort and repose of any person; or
 - b. While in a public toilet solicit any lewd, lascivious or unlawful act; or.
 - c. Obstructing, molesting, or interfering with any person lawfully in any public place, including the making of unsolicited remarks or gestures of an offensive, disgusting, and/or insulting nature which are calculated to annoy, disturb, or impede the person to whom or in whose hearing and presence such remarks or gestures are made.
3. Whenever any person or persons so situate in a public place as above set forth is causing any of the circumstances enumerated in subsection (2) above, any police officer may order that person or those persons to leave that place. Any person or persons who shall refuse to leave after having been so ordered to leave by a police officer shall be guilty of a violation of this section.
4. Any person or persons, individually or in concert, violating any provisions of this section shall be guilty of a Class 3 misdemeanor. (Ord. No. 016-84, 9-11-84)

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SECTION 16-31. LOITERING IN A PUBLIC PLACE WITH INTENT TO ENGAGE IN UNLAWFUL DRUG TRANSACTION.

- (a) It shall be unlawful for any person to loiter in a public place with the intent to sell, give, distribute, possess or purchase a controlled substance, as defined in Section 54.1-3401 of the Code of Virginia, (1950), as amended, as of July 1, 1992. For purposes of this section, the term "controlled substance" shall also include marijuana.
- (b) No person shall be arrested for a violation of this section unless a law enforcement officer or officers shall have observed the following, and no person shall be convicted of a violation of this section except upon testimony of a law enforcement officer or officers of the following:
 - 1. the person remains in one or more public places in the same general location for a period of at least 15 minutes;
 - 2. during this period and while in a public place in the same general location, the person has two or more face-to-face contacts with other individuals;
 - 3. each of such contacts (i) is with one or more different individuals, (ii) lasts no more than two minutes, (iii) involves actions or movements by the person consistent with an exchange of money or other small objects, (iv) involves actions or movements by the person consistent with an effort to conceal an object appearing to be or to have been exchanged, and (v) terminates shortly after the completion of the apparent exchange; and
 - 4. the person engages in some additional overt act, or there is additional circumstantial evidence, that manifests an intent on the person's part to sell, give, distribute, possess or purchase a controlled substance, as defined in subsection (a).

For purposes of this subsection (b), "same general location" shall mean an area defined as a circle with a radius of 750 feet and a center being the place where a person is first observed by a law enforcement officer.

- (c) For purposes of this section, the term "public place" means any street, sidewalk, alley, park, bridge, driveway, parking lot or other public property within the City that is open to the general public.
- (d) Any person convicted of violating this section shall be guilty of a Class 1 misdemeanor. (Ord. No. 021-92, 11-10-92)

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SECTION 16-32. CONSUMPTION OF ALCOHOLIC BEVERAGES AND POSSESSION OF OPEN CONTAINERS OF ALCOHOLIC BEVERAGES IN PUBLIC PLACES.

- (a) Except as provided in subsection (b), it shall be unlawful for any person to take a drink of an alcoholic beverage, or to possess any uncapped or open container of any kind which contains an alcoholic beverage, on or in any public street, public sidewalk, public park, public playground, public school ground, or within any vehicle located on or in any public street, public sidewalk, public park, public playground, or public school ground.
- (b) This section shall not prevent any person from possession an open alcoholic beverage container or from drinking alcoholic beverages or offering a drink thereof to another at an event held within an approved area in any public street or public sidewalk for which a proper city permit and state alcoholic beverage control board license have been obtained. The event area must be located within or abutting the following boundary lines:

Piccadilly Street from Braddock Street to Cameron Street; Cameron Street from Piccadilly to Cork Street; Cork Street from Cameron Street to Braddock Street; and Braddock Street from Cork to Piccadilly Street.

The provisions of this subsection shall expire on December 31, 2006.

(Ord. No. 005-98, 2-10-98; Ord. No. 009-2005, 4-12-05)

